

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

JEFFREY SEVIER,

Petitioner,

vs.

VINCENT CULLEN, Warden,

Respondent.

Civil No. 11cv0416-DMS (NLS)

**SUMMARY DISMISSAL OF  
 SUCCESSIVE PETITION PURSUANT  
 TO 28 U.S.C. § 2244(b)(3)(A)  
 GATEKEEPER PROVISION**

Petitioner, Jeffrey Sevier, a state prisoner proceeding pro se, has filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. This case is summarily dismissed pursuant to 28 U.S.C. § 2244(b)(3)(A) as indicated below.

**PETITION BARRED BY GATEKEEPER PROVISION**

The instant Petition is not the first Petition for a Writ of Habeas Corpus Petitioner has submitted to this Court challenging his January 10, 2000, conviction in San Diego Superior Court case, o. SCD 145402. On February 5, 2002, Petitioner filed in this Court a Petition for a Writ of Habeas Corpus in SO. DIST. CA. CIVIL CASE NO. 02cv0225-BTM (JFS). (See Petition in SO. DIST. CA. CIVIL CASE NO. 02cv0225-BTM (JFS), filed 2/5/02.) In that petition, Petitioner challenged his sentence imposed in San Diego Superior Court case No. SCD145402 as well. (Id. at p. 1.) On September 9, 2004, this Court denied the petition on the merits of the claims presented. (See Order filed 9/01/04 in SO. DIST. CA. CIVIL CASE NO. 02cv0225-BTM (JFS).) Petitioner did not appeal that judgment.

1 Petitioner filed an application for leave to file a second or successive petition with the  
2 Ninth Circuit Court of Appeals on January 23, 2009, which was denied on March 13, 2009.  
3 (See Order filed 3/13/09, Doc. No. 2 in 9TH CIR. CT. OF APP. CASE NO. 09-70239.)

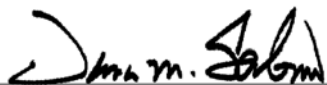
4 Petitioner is now seeking to challenge the same conviction he challenged in his prior  
5 federal habeas petition. Unless a petitioner shows he or she has obtained an Order from the  
6 appropriate court of appeals authorizing the district court to consider a successive petition, the  
7 petition may not be filed in the district court. *See* 28 U.S.C. § 2244(b)(3)(A). Here, the Ninth  
8 Circuit Court of Appeals has denied Petitioner leave to file a successive petition.

9 **CONCLUSION**

10 Accordingly, the Court **DISMISSES** this action without prejudice. The Clerk shall  
11 close the file.

12 **IT IS SO ORDERED.**

13  
14 DATED: March 15, 2011

15   
16 \_\_\_\_\_  
17 HON. DANA M. SABRAW  
18 United States District Judge  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28